G. R. S. 58]

Previous references.

Later references.

191

(Kolaba Rev.)

File No. 19/1889

Serial Nos. 1-5

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Major —Part B for December 1890

SUBJECT.

Appeal of Chandrasekhariah regarding the levy of wet rate on his dry lands cultivated without the aid of Govt. water.

Indexed

V D 1351—GPB—20,000—13-12-15

Appeal No. 2730 of 13th March 1890.

Appellant
Chundrasekhariah
of Nanjangode
Mysore District

Petitioner appeals against the order of the Dy Commissioner dated 28th February 1889 directing assessment to be charged on land at the wet rates, while it is dry-

Petitioner holds a dry land K. P. " 11/4 or 0-1 acres assessed at Rs. — 3-6. It being on a low level, Petitioner raised wet crops by means of springs rising in the land and the Dy Com^r ordered wet rate amounting to Rs. 2-9-6 to be charged.

Petitioner contends that as no water is supplied from a Government work, the charge at wet rates is improper. It further appears that the land in question is not under the atchkat of any Tank and that Petitioner has constructed at his own expense a dam across the jungle stream that runs across his own land and thereby irrigates it -

The Dy Commissioner states that it is usual to charge wet rates on such lands in Talukas not brought under the Survey settlement, but if in the surveyed Talugs any such dry land is cultivated with wet crops it would not be liable to wet assessment. Survey settlement has not yet been introduced into the Talug in which Petrs land is situ - ated.

Notwithstanding the practice, the Government considered that it is not right to charge wet assessment on dry lands when they are cultivated with wet crops without the aid of Government water and they therefore directed that the dry rate alone be collected from the Petr.

(6)

Memo

Petitioner's land which is classed as dry is situated in a low level and the rain water collecting there forms a pool and the land is thereby rendered unfit for dry cultivation. Petitioner in consequence raised on a small portion of his land paddy crop using the water standing on his own land.

The Jamabandy officer charged for the cultivated portion, the highest water rate of the village, the said rate varying from 7 annas to 9 annas a Kolaga.

Petitioner in his appeal to Govt. contends

1st He is not liable to pay

pay wet rate.

2nd Lands similarly circumstanced as his in other villages were not charged with such high rate.

As to the 1st point the Deputy Comm^r states as the Survey settlement was not yet introduced into this Taluk the land is liable to wet rate according to the mamool.

As to the 2nd he states the matter would be Enquired into during the Jamabundy (next?)

It is admitted on all hands that the land in Question is classed as dry and it is not cultivable with dry crop owing to its Excessive swampiness and for the wet crop raised no water was used from any Government works. It is therefore reasonable that Government could only demand from this man payment, simply for the use of the lands — that is dry rate — and not for payment on account of water which the Government did not supply; but the Deputy Commissioner says it is mamool in the unsurveyed Taluks to charge wet rate.

If the 1st contention of the petitioner in his appeal is rejected by the Govt., the matter should lie over till the report is received from the Deputy Comm^r on the 2nd point.

4/8/20

In reply to Mr Ryan's inquiry "Is this statement correct? On what principle is the machine founded, I beg to state that as far as my limited experience goes it is the practice in unsettled districts to assess net rates on land which may at some time have been entered in the accounts as dry but on which rice crop is raised with the aid of water made available by the expenditure of private capital - That is based, I suppose on the principle that all water not made available by private capital is flit water - I suppose that it is on this principle that lands on which rice crop is raised with the help of rain water only are classed as such; & lands which ~~have~~ derive the advantage of percolation from a channel or tank bed are charged for higher than other lands who do not enjoy such benefit.

such crops are so raised is doubtful but that the classes in the accounts is wrong -

My impression is that in this particular case the land is below a large breached tank & that it derives the benefit of the ~~supply~~ stream which runs through the beach - This is not apparent on the record but

ask Mr Lowe to ascertain this & send early report

Mr Ryan. Accepted Thanks 3/8 3/8

puts support in the existence of a
Lake breached Tank being marked
on the Plan sheet (No 58).

M No 2 y 30 dated
13 March 1894

Mr
Chendrasekharaiah
of Narayangoda
Appellant

Petitioner appeals
against the order of the
D.C. Kandy dated 28th July
1889 directing "that
Assessor" be charged
on Thaccu at the next
Rates, while it is D.C.—

Petitioner holds a
Dry land R P
[redacted] 11 1/4 or
Acres assessed at
Rs 3-6.— It lies on
a low level & raised
West crops by means
of Springs rising
in the land

of Springs & the
D.C. Kandy ordered next
Rate 1/4 commutation Rs 2-9-6
to be charged.—

Petitioner contends

wet as no water is supplied from a Govt work, the charge at west rates is improper, ?

It further appears from the Statement that the land in question is not under the district of any Tank and that Pet: has constructed at his own expense a dam across the Pookalam that runs across his own land and thereby impounded

Is this Statute correct? On what principle is this practice founded?

Memo hdd in

Read: —

Correspondence ending with letter no: 525 & 7.5.02, from the Dy: Com[r], Hassan &

(2) Letter no: 291 & 25.10.02, from the Supdt: of Rev: Survey in Dupes.

Order thereon: —

Muthanahalli tank, Regd no: 775 in the Hassan Taluk is a Govt: tank, with an atchakat of 9-17 assessed at Rs: 33, ~~Into it flows~~ and getting ~~in a defined channel a portion~~ part of its supply from ~~of~~ rain water falling on Gomal S. no: 49 of the Muttanahalli ~~Gomal~~ S. no: 10 of Ravathnahalli, ~ which drains into it by a defined channel. Gowna bin Erappa, the ~~occupant of~~ S. no: 25 (dry), measuring 13-35 & assessed at Rs: 19| in the Muthanahalli, raised ~~paddy~~ on a portion of his land

above his land. The matter was brought reported on the Thakarai Thakkita for 1898-9 and the Asst: Observed that an assessment of 1-8-0 ~~assess~~ might be levied on the irrigated portion, Rs 3 being the rate levied on the adjoining wet lands. The Jamabundi Offr: Solicited a reference to Govt: in the matter.

2. The Dy: Com[illegible] Stated that, under Sec: 36 of the L. R. C, the water utilized by the ryot was Govt: property and that, under Govt: Pro: no: 8660-8 / R1284 d 28.11.94, a land irrigated by a jungle stream was liable to a water-rate to be fixed under para 2 of Rule XIX of the Old Land Rev: Rules; but that, under Rule III of the Survey Guarantee, when a water course was made from a Stream, of which the water was not the produce of a work Con=structed at the expense of Govt; no additional assessment would be imposed, whilst, under Rule IV of the same Guarantee, Govt: ~~prohibited~~ reserved the right of prohibiting water courses being made so as to interfere with the storage of water in a work Constructed by Govt: He further pointed out that, in a case in which a ryot holding dry land situated on a low level raised wet crops thereon by Constructing at his own expense a dam across the jungle Stream running through his own land, Govt: laid down in Pro: no: 11033/641 d 17.12.90 that dry rate alone should be levied raised, and He observed that the Rules & the

somewhat misleading and therefore solicited the orders of Govt: in the matter

(3) The Supdt: of the Rev. Survey who was consulted in the matter gave it as his opinion that, under ~~Rule~~ Section 5 of the L.R. Code, the water in this case being water the right to which vests in Govt:, water rate was clearly imposable. In regard to the reading of Rules III & IV of the Survey Guarantee as rendering the occupant immunable from further assessment, he pointed out that the occupant of S. No: 25 did not construct a dam, but simply breached a channel, a stream outside his occupancy. He observed that the occupant of any land could not be at liberty to bring water from outside his holding by constructing a dam or making a water-course and

As the ~~water~~ right of the water vested in Govt:, S. 5 of the Rev. Code gave a clear right to Govt: to impose a water rate. The occupant not having constructed any work within his land, but breached a channel outside its boundaries, could not claim the immunity given by rules III & IV of the Survey Guarantee.

that the Rules quoted from the Survey Guarantee should, ~~from its terms natural~~, be understood to apply to occupied lands.

4. Govt: concur in the opinion of the Supdt: of Rev: Survey & direct that, when an occupant constructs dams or draws water direct from streams not within the boundary of his occupancy, he is liable to pay water rate.

24/11/02 Secretary.

To,
~~The Dy: Com~~r, Hassan, with V.P.
~~The Dy: Com~~r of Mch Dt:
The Rev: Com~~r~~ in Mysore.
The Supdt: of Rev: Survey in Mysore
K.S. The Dy Com~~r~~ Hassan Distt,
20/11/02. with the Rev: papers
" The Dy Com~~r~~ of
Mch Distt: -

Mayst this be printed?

(General Serial No. 32.)

189 0.

(1)

No. 2730

Name of Petitioner. Chendrade Kharia

Village. Kanyanagud

Taluk. Do.

District. Mysore

Date of Arzi. 13-3-90

Date of Receipt. 14-3-90

Date of Disposal.

No. of Enclosures. One

Section. L.R.

File No. 1-1887

Serial No. 1

ABSTRACT.

Appeals against the order of the Dy Com^r Mysore Dt^d No. ____ d/28-2-89 copy herewith produced. Petitioner owns dry lands paying an assessment of Rs 5 2 8 and in the village of Kalalwadi, but owning to excessive swamp therein it does not admit of dry crops being raised. Petr applied to the Taluk authorities for permission to raise wet crop in the land without being

√ Submitted to Chief Secretary.

28/4/90 AP

Whether should be requested to peruse when this petition & Abstract taken that the papers & connected papers.

Whereof the Case of the Ryots to Councillors - (I believe this is a case under the Ryots for the Council)

Illegible 19 May

This was received this day without any order passed along with other papers from the camp. - Resubmitted for orders.

19/5/90. AP

rendered liable to
pay wet rate of assessment.
All the Land of the
Petrs land not being
capable of dry crops
being raised was borne
out by a personal
examination made by
the Taluk & village authorities
the Taluk Dry Cour. charged
wet the Dry Cour. charged
(4 Pagodas a Kandy)
a rate of wet assessment
higher than that charged
on other proper wet
lands possessed of all
necessary advantages of
irrigation for carrying out wet
cultivation.

In the village of Thagadur
lands of similar description
to those owned by Petr
are assessed with the
highest dry rate of assessmen
in the village of Nagarle
lands irrigated by purely
streams are assessed
at 2 Pagodas per Kandy;

in the village of
Hadinur lands commandg
irrigation from the Govt.
Tank are assessed
at 2 Pagodas per Kandy;
assessment on wet
lands below Narasambu
Tank in Nanjangode
varies from 2 to 4 Pagoda
per Kandy; as petrs
bears is the case in
other taluks -
within a radius
of 2 or 3 miles from
the petrs land there
are no wet lands,
neither is there any
source of irrigation -
The imposition of
the high rate of assessmt
on petrs land is not only

unreasonable but
opposed to Survey rules.
Prays that the assessment
levied by the Dy Coll^r
may be cancelled &
orders be sent not to
demand the payment
thereof pending the
decision of this appeal.

Translation of Dy
Coll^rs order d/ 28/2/89
passed on Survey
form No. 7 (Inkrar
taKta)

For wet cultivation
carried out (on the land
mentioned in the case
submitted by the Asst.)
with Kandayam amounting
to Rupees 2-12-5 is charged
in lieu of dry assessment
viz Rs 0-3-5 which is
struck off-

3-90 [illegible]

12/1/91.

No: 96.

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

(2)

Section C. P.
File No 1-1889
Serial No 2

The accompanying Petition No. 2430 dated 13th March/90 received at the Dewan's Office from Chendrasekha-rayya, Kasaba Nan-jangud,

is forwarded, together with its one enclosure, to the Dy. Commr, Mysore Dt. for submission & report and takkar thereon. Ret'd and Connected papers.

From the Same &c

By Order,

BANGALORE,
19/5/1890

Chief Secretary

P. 84 Vol

(General Serial No. 20.)

1890.

OFFICE OF THE DEWAN OF MYSORE. 2652 30.JUN.90 417

From

Section D. P.

Ltr No 1 - 183

Serial No 3

DEPUTY COMMISSIONER

(3)

To

The Chief Secretary to the Dewan of Mysore.

Bangalore

Dated 27th June

Despatched

Received

Enclosures No. 1 File

General No. 391

No.

Official Memorandum No. 96, dated 19th ultimo, forwarding for submission a petition No. 2930, from Chendrasah Setiah of Nanjengode.

The Petitioner contends that the Wet assessment fixed by Mr. Saunders on his dry lands for having cultivated Wet crops should be reversed on the following grounds.

(1) That he cultivated his land with Wet crops by means of Spring Water (Jowgaueru) only, and not with water supplied from a Government

Returned Papers as solicited

Submitted to the Chief Secretary.

5th July 1890. AR

This is not a Council Case.

It does not I think come under any of the Council rules - Assessments charged by the Dy. Commr on dry lands in an unsettled Taluk according to local circumstances could only be revised by Govt.

5/7/90 AR

Under sec 6 of the Mysore Land Revenue Code 1907 9 262

(General Serial No. 30.)

1890.

From

Section

To No

Serial No

To The D.C. Mysore

Dated 8 August 1890

Despatched 14

Received

Enclosures No.

General No. 4907

No. 262

2. That others who have similarly cultivated their lands in that Taluq have not been taxed.

2. After the Survey Settlement, under a Petitioner took water from a Government work he would not be taxed, owing to the dampness of the ground he was able to raise a wet crop on what had been classed as dry by the Survey; but in an unsurveyed Taluq it is different, and the undersigned's predecessor in raising the Petitioner's rate acted in accordance with the invariable manner.

3. As regards the second point, the Amildar has been directed to enquire and enter in Form No. 7, if proved, similar cases during fasli bundz.

4. The Thahsildar Mulkhu asked for, as well as the petition and its enclosures received with the Memo under reply are herewith returned.

G. J. Mackaye

Deputy Commissioner
Mysore District

Ch 2401/262 of 8-8-90
TK 6.VIII

To

The Dy Cr Mysore
Dr Court

Dely Cr No 391 of 27th June last reporting upon application from Chenda Sahanah of Nanjangode

---

The Sahanah that the land with the above mentioned forwarded for respectful reference and report with a view as to the precise nature of the water supply enjoyed by the land in question (No 1/14 in Halalvadi village). The fact should be ascertained by respectful local inquiry & inspection. Does not the land form part of the catchment of the large breached tank in the village?

By order

(General Serial No. 31.)

OFFICE OF THE DEWAN OF MYSORE. 1967 26 NOV 90 1056

180

From The Deputy Commissioner Mysore District.

No. 5 Serial No. To The Chief Secretary to the Dewan Govt. of Mysore.

Dated 19 November 1890.

Despatched 20

Received

Enclosures No. 1 file

General No. 1035

No.

Submitted.

Orders have been issued I think, in accordance with the decision of Govt. directing the levy of dry rate & assessment.

1/12/90.

Cancelled by

16/11/90

As this is a Councillor's Case Colvt. has reported to Tumkur Collector

9/12/90

I acted this before Capt. Cooper's Report & allow to hold up a [illegible] sanctioning the levy of dry rate.

It is clear that the land is not under the ashkat of any tank & the well crop is raised with water supplied from any Govt. works but with water collected by the petitioner himself on his own land during the monsoon. It does not interfere with the supply to any of the existing Govt. irrigation works & the under Govt. has the right to divert this stream & any of the future irrigation works are remain unaffected.

8/12/90

As

Has the honor to submit herewith Nanjangode Amildar's Report No. 555/666 dated 8th October 1890, and its enclosures, received with the General Assistant Commissioner's Docket No. 17 dated 5th instant, from which it will be seen that the land in question is not under the Ashkut of any tank, and irrigated by any Government work.

It would appear that the Petitioner has constructed a dam across the Jungle stream which runs above his land and thereby irrigates it. —

H Munisundaya Jr.
for Deputy Commissioner
Mysore District.
MM

J
p. 104

(General Serial No. 30).

1890.

(7)

From

The Chief Secretary to the Dewan of Mysore.

Secretariat No. 1 2 3 4 5

To

The Deputy Commissioner Mysore District

Dated
Despatched 17th } December/90
Received

Enclosures No.

General No. 11033
No. 641 P843

Passing orders on the case of Appellant Chendrasekharaiah of Nanjangode, Hyderabad

Before the Government of *His Highness* the Maharaja of Mysore

GOVERNMENT OF MYSORE

Appeal No. 2430 of 13th March 190.

Appellant. Vs. Respondent

Chendrasekhariah.
of Nanjangode -
Mysore Distt:

Decision.

Petitioner appeals against the order of the Deputy Commissioner dated 28th February 1889 directing assessment to be charged on land at the wet rates, while it is dry -

Petitioner holds a dry land K. P. — 1½ or 0.1 Acres assessed at Rs. 4 - 3 - 6. It being on a low level, Petitioner raised wet crops by means of springs issuing in the land and the Deputy Commissioner orders wet rate, amounting to Rs. 2. 9. 6 to be charged -

Petitioner contends that as no water is supplied from a Government work, the charge at wet rates is improper. It further appears that the land in question is not under the actual of any Tank and that Petitioner has constructed at his own expense a dam across the jungle stream that runs across his dry

land and thereby irrigates it.

The Deputy Commissioner states that it is usual to charge wet rates on such lands in Talugs not brought under the Survey Settlement, but if in the surveyed Talugs any such dry land is cultivated with wet crops it would not be liable to wet assessment - Survey Settlement has not yet been introduced into the Talug in which Petitioner's land is situated.

Notwithstanding the practice, the Government consider that it is not right to charge wet assessment on dry lands when they are cultivated with wet crops without the aid of Government water and they therefore direct that the dry rate alone be collected from the Petitioner

"By order"

171 mrso
10-1-91

Under Secretary

A&R No: 11033/641
9/17-12-90
10-1-91
P-843
Copy

Copy forwarded to the Dy. Commr. Mysore Dt.
with the ver: papers recd with his No. 1035 dt 19.11.90.

By order

Under Secty.

No. 2730

Appellant.
Chendrasekharayya,
Kasba Nanjangud.

Endorsement.

In reply to his Petition dated 13th March 1890,
Chendrasekharayya of Kasba Nanjangud,
Mysore District.

is informed that the Deputy Commissioner has been ordered to charge dry assessment only on his land.

The encls: is returned.

A&R

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT,
189 .

By Order,

Secretary.